

Medicines and medical appliances are not taxed at the general State rate of 6.25%. These items are taxed at a lower State rate of 1%. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

April 29, 2008

Dear Xxxxx:

This letter is in response to your letter dated September 19, 2007, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC manufactures and sells medical implants and medical instruments primarily to hospitals, surgical centers and veterinarians. We are requesting a letter ruling regarding sales of PRODUCT and whether they qualify for the sales and use tax exemption as a prostheses, orthopedic, or orthotic medical appliance

In small fracture cases, the PRODUCT goes in a patient on a temporary basis in 50% of these cases, with the wire protruding through the skin for future extraction. The reason that the wire protrudes through the skin is because the PRODUCTS will migrate in the body. The cause of this migration is due to the fact that PRODUCTS do not have screw threads cut into them. After a short period, the wires are removed. PRODUCTS are rarely kept in the body on a permanent basis. Also, in large fractures cases, PRODUCTS would rarely be implanted in a patient; even on a temporary basis. This is also due to the migration issues of the wire, and the strength of the wire. For you convince [sic] I have attached several brochures which describe how the PRODUCTS are used.

If you have any questions, or need additional information, please do not hesitate to contact me. Thank you for reviewing our request and we await your determination.

**DEPARTMENT'S RESPONSE:**

For useful information regarding the taxation of food, drugs, medicines and medical appliances, I refer you to the Department's regulation at 86 Ill. Adm. Code 130.310. Products that qualify as medicines, drugs, or medical appliances under the regulation are taxed at the reduced rate of 1% plus applicable local taxes. Those that do not qualify for the low rate are taxed at the State rate of 6.25%, plus applicable local taxes. Please note that sales to veterinarians do not qualify for the low rate of tax.

The definition of a medical appliance is "an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the human body." Please note that 86 Ill. Adm. Code 130.310(c)(2) provides that medical appliances may be prescribed by licensed health care professionals for use by a patient, purchased by health care professionals for the use of patients, or purchased directly by individuals. Examples of items that qualify for the reduced rate for medical appliances are such items as artificial limbs, dental prostheses and orthodontic braces, crutches and orthopedic braces, wheelchairs, heart pacemakers, and dialysis machines (including the dialyzer). As a general proposition, diagnostic, treatment, and rehabilitative equipment items do not qualify for the reduced rate of tax as medical appliances because such items are not "for use in directly substituting for a malfunctioning part of the body," 86 Ill. Adm. Code 130.310(c)(2).

Braces that provide support only, such as Ace bandages and athletic-type braces, generally do not qualify for the low rate of tax. Braces that actually restrict mobility and impair the function of the body part being braced may qualify. See 86 Ill. Adm. Code 130.310(c)(2). Other medical tools, devices and equipment such as x-ray machines, laboratory equipment, and surgical instruments that may be used in the treatment of patients but that do not directly substitute for a malfunctioning part of the human body do not qualify as exempt medical appliances.

I hope this information is helpful. If you require additional information, please visit our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Richard S. Wolters  
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RSW:msk